



State of Washington
Department of Revenue

Excise Tax Advisory

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NUMBER 369.04.172 **REPEALED 7/16/2001** CONVERSION DATE: July 1, 1998

RETAIL SALES TAX: TREE-PLANTING AND TREE-THINNING

Issued June 12, 1970

Must a taxpayer who performs tree-planting and tree-thinning services collect the retail sales tax upon charges for such services?

The taxpayer contends that these services do not fall within the statutory definition of retail sales set out in RCW 82.04.050; specifically, that the planting of trees does not constitute "installing tangible personal property" and tree-thinning does not constitute the "clearing of land." It is argued that since the term "installing" is not defined by the statute, the ordinary meaning should be used. Applying the ordinary meaning to its context in RCW 82.04.050, it is urged that "installing" has no reference to the planting of seedlings or seeds of plants. As to the thinning of trees, it is contended that this activity does not fall within the term "clearing land" since to clear land requires the removal of all timber of every size.

With respect to tree-planting, the department agrees with the taxpayer that this service does not constitute "installing tangible personal property." As to thinning, the department does not believe that the "clearing of land" as used in RCW 82.04.050 is limited to situations in which "all the timber of every size" is removed. The department does not construe the cases of Norman v. Department of Labor and Industries, 10 Wn. 2d 180, and King County v. Tax Commission, 63 Wn. 2d 393, as standing for the narrow definition of "clearing land" suggested by the taxpayer. Contrarily, the cases make it clear that the term is to be broadly defined. "Clearing" means by any and all methods and "land" refers to any and all land not expressly excepted. As to the issue whether "thinning" falls within the term "clearing land," the department believes that the activity is more nearly characterized as land cultivation than land clearing. Consequently, no retail sales tax is to be collected on charges for tree-planting or tree-thinning. The Service and Other Activities classification of the business and occupation tax is the proper category for such activities.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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